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Attorney Docket No. B45198

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wettendorff, MartineAnne Cecile

Serial No.: 10/070,479

Group Art Unit: 1648

Filed: 26 June 2002

Examiner: Ali Reza Salimi

For: NOVEL COMPOSITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**REPLY TO REQUIREMENT TO
RESTRICT UNDER 35 U.S.C. § 121 AND 372**

Sir:

This paper is in response to the Restriction Requirement dated 24 September 2003, setting forth a thirty (30) day shortened statutory period for reply. As this response is timely filed within the shortened statutory period for response of thirty (30) days, no fee is required. Please charge any additional fees relating to this paper to Deposit Account No. 19-2570.

In response to the Restriction Requirement, Applicant elects Examiner's Group I, claims 21-26, drawn to a vaccine composition comprising an HSV antigen, an HPV antigen and an

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adjuvant which is a preferential stimulator of TH1 cell response, with traverse. Applicant respectfully asserts that, consistent with the action before the International Preliminary Examining Authority, a single general inventive concept unites all of the claims and thus the requirement to restrict should be withdrawn. Applicant respectfully disagrees with the Examiner, and asserts that U.S. Patent No. 5,855,891 does not teach the invention embodied by instant claim 21. In particular, there is no mention of an adjuvant of any kind in the '891 patent. Therefore, a vaccine composition comprising an HSV antigen, an HPV antigen and an adjuvant that is a preferential stimulator of TH1 cell response represents a special technical feature under PCT Rule 13.2. Since all of the claims relate to this single general inventive concept (PCT Rule 13.1), and since this concept clearly makes a contribution over the cited prior art, the requirement to restrict is improper and should be withdrawn.

Applicant also draws the Examiner's attention to PCT Rule 13.4 which clearly contemplates inclusion of dependent claims "claiming specific forms of the invention claimed in independent form, even where the features of any dependent claim could be considered as constituting in themselves an invention". Accordingly, since PCT Rule 13.1 is fulfilled insofar as all of the Examiner's groups share a technical relationship involving one or more of the same or corresponding special technical features (i.e., the requirement for an HSV antigen, an HPV antigen and an adjuvant that is a preferential stimulator of TH1 cell response), PCT Rule 13.4 establishes that claims 22-70, all of which ultimately depend back to claim 21, satisfy unity of invention and are proper in this application.

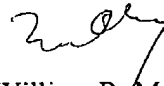
Applicant traverses the election of species requirement and respectfully asserts that an election of species for Examiner's group I is impossible as no species of this group has been identified by the Examiner. Moreover, Applicant repeats the arguments above insofar as they pertain to the single general inventive concept under PCT Rule 13.1. That is, the cited art does not disclose a vaccine composition comprising an HSV antigen, an HPV antigen and an adjuvant that is a preferential stimulator of TH1 cell response or any species thereof. Accordingly, the requirement to elect a single species is improper and should be withdrawn.

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Applicant reserves the right to prosecute, in one or more patent applications, the canceled claims, the claims to non-elected inventions, the claims as originally filed, and any other claims supported by the specification.

Respectfully submitted,



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